

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	Cr. No. 05-00189DAE-01
)	
Plaintiff,)	
)	
v.)	
)	
KEITH IMAI,)	DECLARATION OF COUNSEL
(01))	
)	
Defendant.)	
_____)	

DECLARATION OF COUNSEL

I, MYLES S. BREINER, declare as follows:

1. I am the attorney of record for Defendant Keith Imai in the above-captioned matter.

2. On May 26, 2005, Counsel filed and served on the Government, Defendant's Written Request for Discovery.

3. Under paragraph 4 of Defendant Imai's written request, Defendant requested the following:

Pursuant to Rule 26.2 of the Federal Rules of Criminal Procedure, defendant requests the government to allow his counsel to inspect, copy, photograph, any statement of any witness that testifies on direct examination on behalf of the government. This request includes, but is not limited to, any statement which is known or by due diligence may become known to the government.

4. Counsel reviewed all discovery provided to date by the Government.

In the sealed Affidavit in Support of Application for Order Authorizing Interception of Wire Communications, filed on November 15, 2004 under Misc. No. 04-00267SOM/KSC, various

individuals made statements to law enforcement concerning Defendant Keith Imai and his alleged involvement in drug activity.

5. It is yet unclear whether or not the Government will be calling these individuals to testify against Defendant Imai at trial or any other proceeding, however, in order to thoroughly prepare for trial, further discovery concerning these individuals is necessary.

6 Based on the foregoing, Defendant respectfully requests the following information pursuant to Defendant's rights under FRCP Rule 16, the Jencks Act, 18 U.S.C. §3500, and Brady v. Maryland, 373 U.S. 83 (1963).

- a. Any and all witness interviews, oral and/or written statements, investigative reports, correspondences, proffer letters, letters of immunity, etc. for the following individuals regarding any statements concerning Defendant Keith Imai:
 1. Gary Motonori Matsuo
 2. Ernest Esparza
 3. Jose Avita-Quinones
 4. Stacey Kuamoo
 5. Any and all confidential sources in this case.
- b. All information favorable to the defendant which is known to the prosecutors or to any government agent(s), law enforcement officers or others who have acted as investigators from any federal, state, or local agencies who have participated in either the investigation or prosecution of the events underlying the crimes charged.
- c. A written description of any criminal cases pending against any anticipated prosecution witness.
- d. Any and all information in any form, whether or not admissible, that tends to 1) exculpate the defendant; 2) adversely impact the credibility of government witnesses or evidence; 3) mitigate the offenses; and/or 4) mitigate punishment.

7. Counsel cannot prepare for trial without the critical materials sought in the instant motion to compel discovery.

8. In addition to the items noted above Counsel request this Court to issue an order requiring the government to ensure that all rough notes of its witnesses containing statements or summaries of statements of the Defendant be preserved and copies provided to the Defense.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/8, 2006.

A handwritten signature in black ink, appearing to read 'Myles S. Breiner', is written over a horizontal line.

MYLES S. BREINER